

) BEFORE THE STATE ETHICS COMMISSION

IN THE MATTER OF:  
COMPLAINT C2011-080

State Ethics Commission,  
Complainant;

VS.

Robert P. Grabowski,  
Respondent.

## DECISION AND ORDER

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STATE ETHICS  
COMMISSION

This matter comes before the State Ethics Commission by virtue of a complaint filed by the State Ethics Commission on May 9, 2011. On July 20, 2011 and November 16, 2011, pursuant to S.C. Code Ann. §8-13-320(10)(i)(Supp. 2011), the State Ethics Commission reviewed the above-captioned complaint charging Respondent, Robert P. Grabowski, with nineteen violations of Article 13 of Title 8 and probable cause was found to warrant an evidentiary hearing.

Present at the Hearing on March 21, 2012 were Commission Members Edward E. Duryea, Chair, George Carlton Manley and JB Holeman. Respondent was present and appeared *pro se*. Complainant was represented by Cathy L. Hazelwood, General Counsel. The following charges were considered from two separate Notices of Hearing:

**FIRST NOTICE OF HEARING**  
**COUNT ONE**

**FAILURE TO FILE A QUARTERLY CAMPAIGN DISCLOSURE REPORT  
SECTION 8-13-1308(B), S.C. CODE ANN., 1976, AS AMENDED**

That the Respondent, Robert P. Grabowski, a candidate for Horry County Council in an election on November 4, 2008, on or about January 10, 2009, did fail to timely file a quarterly Campaign Disclosure Report within ten days of the end of the calendar quarter.

**COUNT TWO**  
**FAILURE TO FILE A QUARTERLY CAMPAIGN DISCLOSURE REPORT**  
**SECTION 8-13-1308(B), S.C. CODE ANN., 1976, AS AMENDED**

That the Respondent, Robert P. Grabowski, a candidate for Horry County Council in an election on November 4, 2008, on or about April 10, 2009, did fail to timely file a quarterly Campaign Disclosure Report within ten days of the end of the calendar quarter.

**COUNT THREE**  
**FAILURE TO FILE A QUARTERLY CAMPAIGN DISCLOSURE REPORT**  
**SECTION 8-13-1308(B), S.C. CODE ANN., 1976, AS AMENDED**

That the That the Respondent, Robert P. Grabowski, a candidate for Horry County Council in an election on November 4, 2008, on or about July 10, 2009, did fail to timely file a quarterly Campaign Disclosure Report within ten days of the end of the calendar quarter.

**COUNT FOUR**  
**FAILURE TO FILE A QUARTERLY CAMPAIGN DISCLOSURE REPORT**  
**SECTION 8-13-1308(B), S.C. CODE ANN., 1976, AS AMENDED**

That the Respondent, Robert P. Grabowski, a candidate for Horry County Council in an election on November 4, 2008, on or about October 10, 2009, did fail to timely file a quarterly Campaign Disclosure Report within ten days of the end of the calendar quarter.

**COUNT FIVE**  
**FAILURE TO FILE A QUARTERLY CAMPAIGN DISCLOSURE REPORT**  
**SECTION 8-13-1308(B), S.C. CODE ANN., 1976, AS AMENDED**

That the Respondent, Robert P. Grabowski, a candidate for Horry County Council in an election on November 4, 2008, on or about January 10, 2010, did fail to timely file a quarterly Campaign Disclosure Report within ten days of the end of the calendar quarter.

**COUNT SIX**  
**FAILURE TO FILE A QUARTERLY CAMPAIGN DISCLOSURE REPORT**

**SECTION 8-13-1308(B), S.C. CODE ANN., 1976, AS AMENDED**

That the Respondent, Robert P. Grabowski, a candidate for Horry County Council in an election on November 4, 2008, on or about April 10, 2010, did fail to timely file a quarterly Campaign Disclosure Report within ten days of the end of the calendar quarter.

**COUNT SEVEN**

**FAILURE TO FILE A QUARTERLY CAMPAIGN DISCLOSURE REPORT  
SECTION 8-13-1308(B), S.C. CODE ANN., 1976, AS AMENDED**

That the Respondent, Robert P. Grabowski, a candidate for Horry County Council in an election on November 4, 2008, on or about July 10, 2010, did fail to timely file a quarterly Campaign Disclosure Report within ten days of the end of the calendar quarter.

**COUNT EIGHT**

**FAILURE TO FILE A QUARTERLY CAMPAIGN DISCLOSURE REPORT  
SECTION 8-13-1308(B), S.C. CODE ANN., 1976, AS AMENDED**

That the Respondent, Robert P. Grabowski, a candidate for Horry County Council in an election on November 4, 2008, on or about October 10, 2010, did fail to timely file a quarterly Campaign Disclosure Report within ten days of the end of the calendar quarter.

**COUNT NINE**

**FAILURE TO FILE A QUARTERLY CAMPAIGN DISCLOSURE REPORT  
SECTION 8-13-1308(B), S.C. CODE ANN., 1976, AS AMENDED**

That the Respondent, Robert P. Grabowski, a candidate for Horry County Council in an election on November 4, 2008, on or about January 10, 2011, did fail to timely file a quarterly Campaign Disclosure Report within ten days of the end of the calendar quarter.

**SECOND NOTICE OF HEARING**

**COUNT ONE**

**CONVERSION OF CAMPAIGN FUNDS TO PERSONAL USE  
SECTION 8-13-1348, S.C. CODE ANN., 1976, AS AMENDED**

That the Respondent, Robert P. Grabowski, a candidate for Horry County Council in an election on November 4, 2008, did in Horry County in February 2009, unlawfully violate Section 8-13-1348 by converting to personal use campaign contributions when Respondent filed a final campaign disclosure form which reflected an expenditure to himself for the repayment of a personal loan when the campaign bank records reflect no loan, nor any contributions by Respondent to his campaign.

**COUNT TWO**

**FAILURE TO DISCLOSE EXPENDITURES  
SECTION 8-13-1308(F)(4) , S.C. CODE ANN., 1976, AS AMENDED**

That the Respondent, Robert P. Grabowski, a candidate for Horry County Council in an election on November 4, 2008, did in Horry County, unlawfully violate Section 8-13-1308(F), by failing to disclose in a pre-election Campaign Disclosure form a \$524.56 expenditure made to Duplicate Ink on September 26, 2008.

**COUNT THREE**

**FAILURE TO DISCLOSE EXPENDITURES  
SECTION 8-13-1308(F)(4) , S.C. CODE ANN., 1976, AS AMENDED**

That the Respondent, Robert P. Grabowski, a candidate for Horry County Council in an election on November 4, 2008, did in Horry County, unlawfully violate Section 8-13-1308(F), by failing to disclose in a pre-election Campaign Disclosure form a \$158.11 expenditure made to Lowes on October 11, 2008.

**COUNT FOUR**

**FAILURE TO DISCLOSE EXPENDITURES  
SECTION 8-13-1308(F)(4) , S.C. CODE ANN., 1976, AS AMENDED**

That the Respondent, Robert P. Grabowski, a candidate for Horry County Council in an election on November 4, 2008, did in Horry County, unlawfully violate Section 8-13-1308(F), by failing to disclose in a January 2009 quarterly Campaign Disclosure form a \$40.00 expenditure made to Edward Suggs on October 31, 2008.

**COUNT FIVE**  
**FAILURE TO DISCLOSE EXPENDITURES**  
**SECTION 8-13-1308(F)(4) , S.C. CODE ANN., 1976, AS AMENDED**

That the Respondent, Robert P. Grabowski, a candidate for Horry County Council in an election on November 4, 2008, did in Horry County, unlawfully violate Section 8-13-1308(F), by failing to disclose in a January 2009 quarterly Campaign Disclosure form a \$200.00 expenditure made to the Horry County Republican Party on October 31, 2008.

**COUNT SIX**  
**FAILURE TO DISCLOSE EXPENDITURES**  
**SECTION 8-13-1308(F)(4) , S.C. CODE ANN., 1976, AS AMENDED**

That the Respondent, Robert P. Grabowski, a candidate for Horry County Council in an election on November 4, 2008, did in Horry County, unlawfully violate Section 8-13-1308(F), by failing to disclose in a April 2009 quarterly Campaign Disclosure form a \$400.00 expenditure made to St. Andrews on March 13, 2009.

**COUNT SEVEN**  
**FAILURE TO PAY EXPENDITURES FROM**  
**CAMPAIGN BANK ACCOUNT CHECK**  
**SECTION 8-13-1312, S.C. CODE ANN., 1976, AS AMENDED**

That the Respondent, Robert P. Grabowski, a candidate for Horry County Council in an election on November 4, 2008, did in Horry County, unlawfully violate Section 8-13-1312, by failing to make expenditures on checks drawn from his campaign account when an expenditure for \$427.35 to Lowes was disclosed on a pre-election campaign dis-

closure form, but did not appear in the campaign bank records.

**COUNT EIGHT**  
**FAILURE TO PAY EXPENDITURES FROM**  
**CAMPAIGN BANK ACCOUNT CHECK**  
**SECTION 8-13-1312, S.C. CODE ANN., 1976, AS AMENDED**

That the Respondent, Robert P. Grabowski, a candidate for Horry County Council in an election on November 4, 2008, did in Horry County, unlawfully violate Section 8-13-1312, by failing to make expenditures on checks drawn from his campaign account when an expenditure for \$2000.00 to Lucky Dog Productions was disclosed on a pre-election campaign disclosure form, but did not appear in the campaign bank records.

**COUNT NINE**  
**FAILURE TO PAY EXPENDITURES FROM**  
**CAMPAIGN BANK ACCOUNT CHECK**  
**SECTION 8-13-1312, S.C. CODE ANN., 1976, AS AMENDED**

That the Respondent, Robert P. Grabowski, a candidate for Horry County Council in an election on November 4, 2008, did in Horry County, unlawfully violate Section 8-13-1312, by failing to make expenditures on checks drawn from his campaign account when an expenditure for \$1700.00 to Lucky Dog Productions was disclosed on a pre-election campaign disclosure form, but did not appear in the campaign bank records.

**COUNT TEN**  
**ACCEPTANCE OF EXCESSIVE CONTRIBUTION**  
**SECTION 8-13-1314(A)(1), S.C. CODE ANN., 1976, AS AMENDED**

That the Respondent, Robert P. Grabowski, a candidate for Horry County Council in an election on November 4, 2008, did in Horry County, unlawfully violate Section 8-13-1314, by accepting an excessive campaign contribution in the amount of \$1000.00 from Miller Direct on March 28, 2008 when Respondent accepted a \$1000 contribution on March

27, 2008 from Miller Direct.

### **STATEMENT OF FACTS**

1. The Respondent, Robert P. Grabowski, was a candidate for Horry County Council in a November 2008 election and he was required to file quarterly campaign disclosure forms (CD) until final disbursement.

2. Commission Investigator Dan Choate testified that Respondent filed an October 10, 2008 pre-election CD showing a balance in his campaign account. By letter dated January 31, 2011, Respondent was advised that quarterly CDs that were due by January 10, April 10, July 10, October 10, 2009; January 10, April 10, July 10, October 10, 2010 and January 10, 2011 had not been received and late filing penalties were being levied. By certified letter dated March 18, 2011, Respondent was reminded that his quarterly CDs had not been received. This letter was returned marked unclaimed and was re-mailed first class on April 19, 2011.

3. Investigator Choate testified that he spoke to Respondent on May 17, 2011. Respondent stated that he had not received any Commission correspondence because he was separated from his wife and he was at a new address. Commission staff mailed the complaint and letters to a new address provided by the Respondent. Respondent stated he would locate his records and file the proper CDs. Respondent filed the appropriate disclosure on March 21, 2012.

4. Kristin Smith, Administrative Coordinator of non-compliance, testified that Respondent provided a copy of a final CD he said he mailed to the Commission in February 2009. The CD reflected an expenditure of \$672.65 on February 1, 2009 to "re-pay per-

sonal loan". A review of the disclosure reports filed revealed no loan from Respondent, nor any personal funds contributed to his campaign. Respondent was notified of the discrepancy on August 24, 2011; however, he failed to respond or file an amended disclosure.

5. Ms. Smith testified that on September 29, 2011 a subpoena was issued to the First Reliance Bank for Respondent's campaign records, to include all bank statements, deposits and checks. A review of these records revealed six checks written on the campaign account which were not reported on disclosure reports, and three expenditures listed on the October 10, 2008 disclosure report which were not included in the bank records. In addition Respondent received two \$1,000 checks from Miller Direct on March 27 and March 28, 2008.

6. Respondent testified that he mailed a final CD in February 2009 so he did not think he needed to file anything else. He testified that he paid for several expenditures out of his personal funds without disclosing his contribution or the expenditures in his CDs. He had no desire to deceive the Commission. He just didn't know what to do.

### **CONCLUSIONS OF LAW**

Based upon the Findings of Fact, the Commission concludes, as a matter of law:

1. During all times relevant, the Respondent, Robert P. Grabowski, was a candidate as defined by Section 8-13-1300(4).
2. The State Ethics Commission has personal and subject matter jurisdiction
3. Section 8 13 1308(B) provides:

Following the filing of an initial certified campaign report, additional certified campaign reports must be filed within ten days following the



end of each calendar quarter in which contributions are received or expenditures are made, whether before or after an election until the campaign account undergoes final disbursement pursuant to the provisions of Section 8-13-1370.

4. Section 8-13-1308(F) requires a candidate to disclose all expenditures and all contributions, to include his own, on the candidate campaign disclosure form.
5. Section 8-13-1312 states in part:

A candidate may not establish more than one campaign checking account and one campaign savings account for each office sought, and a committee may not establish more than one checking account and one savings account unless federal or state law requires additional accounts.....Except as otherwise provided under Section 8-13-1348(C), expenses paid on behalf of a candidate or committee must be drawn from the campaign account and issued on a check signed by the candidate or a duly authorized officer of a committee. All contributions received by the candidate or committee, directly or indirectly, must be deposited in the campaign account by the candidate or committee within ten days after receipt....

6. Section 8-13-1314(A) provides as follows:

Within an election cycle, no candidate or anyone acting on his behalf may solicit or accept:

- (1) a contribution which exceeds:
  - (a) three thousand five hundred dollars in the case of a candidate for statewide office; or
  - (b) one thousand dollars in the case of a candidate for any other office;

7. Section 8-13-1348 (A) states:

No candidate, committee, public official, or political party may use campaign funds to defray personal expenses which are unrelated to the campaign or the office if the candidate is an officeholder nor may these funds be converted to personal use. The prohibition of this subsection does not extend to the incidental personal use of campaign materials or equipment nor to an expenditure used to defray any ordinary expenses incurred in connection with an individual's duties as a holder of elective office.

8. Section 8-13-1510(1) provides as follows:

Except as otherwise specifically provided in this chapter, a person required to file a report or statement under this chapter who files a late statement or report or fails to file a required statement or report must be assessed a civil penalty as follows:

(1) a fine of one hundred dollars if not filed within five days after the established deadline provided by law in this chapter;

(2) after notice has been given by certified or registered mail that a required statement or report has not been filed, a fine of ten dollars per calendar day for the first ten days after notice has been given, and one hundred dollars for each additional calendar day in which the required statement or report is not filed, not exceeding five thousand dollars.

9. Section 8-13-320(10)(l)

(i) requiring the public official, public member, or public employee to pay a civil penalty of not more than two thousand dollars for each violation.

10. Section 8-13-130 provides:

The State Ethics Commission may levy an enforcement or administrative fee on a person who is found in violation, or who admits to a violation of the "Ethics, Government Accountability and Campaign Reform Act of 1991".

**DECISION**

NOW, THEREFORE, based on the foregoing Findings of Fact and Conclusions of Law, the State Ethics Commission has determined based upon a preponderance of evidence that Respondent Robert P. Grabowski is in violation of Counts One through Five of the First Notice of Hearing and all counts of the Second Notice of Hearing; and therefore, Respondent Robert P. Grabowski is PUBLICLY REPRIMANDED AND is hereby assessed a reduced late-filing penalty of \$1,000.00, a fine of \$10,000.00 for the ten violations in the Second Notice of Hearing and a \$35.00 administrative fee for bank subpoena records. The reduced assessment of \$11,035.00 must be paid within six months of receipt

of the signed order or it will revert to the full late-filing penalty of \$25,000.00, a \$10,000 fine and the \$35.00 administrative fee for a total of \$35,035.00.

IT IS FURTHER ORDERED, pursuant to Section 8-13-320, a Judgment in the amount of \$35,035.00 is, and shall be entered against Respondent, if he fails to pay the reduced late filing penalty within the time allotted.

IT IS FURTHER THE ORDER OF THIS COMMISSION that the Clerk of Court of the County in which Respondent was last known to reside shall enter this Order in its Judgment Rolls, without cost to the State Ethics Commission, in the amount of \$35,035.00 upon the Commission's filing of same with the Clerk of Court's Office.

FINALLY, Respondent Robert P. Grabowski has ten (10) days from receipt of this order to appeal this Decision and Order to the full Commission.

IT IS SO ORDERED THIS 29th DAY OF April, 2012.

STATE ETHICS COMMISSION

  
EDWARD E. DURYEA  
HEARING CHAIR

COLUMBIA, SOUTH CAROLINA